

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

D'ANDRE ALEXANDER,

Plaintiff,

v.

Case No. 2:16-cv-13293

District Judge Mark A. Goldsmith

Magistrate Judge Anthony P. Patti

NICHOLAS CALZETTA, *et al.*

Defendants.

**ORDER CONSTRUING PLAINTIFF'S MOTION TO STAY AS A MOTION
TO WITHDRAW HIS MOTION FOR A TRO AND A PRELIMINARY
INJUNCTION, GRANTING THE MOTION TO WITHDRAW (DE 56) and
DEEMING WITHDRAWN THE UNDERLYING MOTION (DE 43)**

On September 8, 2016, while incarcerated at Macomb Correctional Facility (MRF), D'Andre Alexander (#731077) filed the instant lawsuit against 18 defendants. The facts underlying Plaintiff's complaint span the period from February 2, 2015, when Plaintiff was incarcerated at MBP, through February 2016, when Plaintiff was incarcerated at WCC. (DE 1 at 2 ¶ 4, DE 1 at 3-7 ¶¶ 13-48.) Sixteen Defendants have appeared, and service as to the remaining two defendants – Haas and Rosen – is ongoing.

This case has been referred to me for all pretrial matters. Among the multiple motions pending in this case are: (1) Plaintiff's June 26, 2017 motion for a temporary restraining order and a preliminary injunction (DE 43), filed while

Plaintiff was incarcerated at MRF and seeking entry of an order requiring the MDOC to place him in protective custody, “long term pursuant to [MDOC] [Police Directive] 05.01.140 . . . [;]” and (2) Plaintiff’s July 12, 2017 motion to stay the motion for TRO and preliminary injunction (DE 56), filed while Plaintiff was incarcerated at Chippewa Correctional Facility (URF) and requesting that the Court stay his motion for TRO and preliminary injunction, pending his transfer. Significantly, the prayer for relief in Plaintiff’s motion to stay does not mention protective custody; instead, it is focused on transfer. (DE 56 at 2.)

The Court appreciates Plaintiff’s desire “to not un[n]ecessarily utilize” the Court’s “authority and resources[.]” (DE 56 at 1.) Upon consideration, Plaintiff’s motion to stay (DE 56) is **CONSTRUED** as a motion to withdraw his motion for TRO and preliminary injunction (DE 43). The motion to withdraw is **GRANTED**, and Plaintiff’s underlying motion is **DEEMED WITHDRAWN**. In so doing, the Court notes that the MDOC’s Offender Tracking Information System (OTIS) lists Alexander’s current location as the Richard A. Handlon Correctional Facility (MTU) in Ionia, Michigan. See www.michigan.gov/corrections, “Offender Search.” MTU differs from the return address on Plaintiff’s motion to stay – URF. As such, it appears that Plaintiff achieved the transfer he sought. Moreover, given the way he has phrased this motion to stay – namely, *if transferred* he would move to strike his motion for TRO / preliminary injunction and *if not transferred* he

would request a hearing - his motion for TRO / preliminary injunction would be rendered moot by his transfer. Plaintiff may renew his request if this is not the case.

IT IS SO ORDERED.

Dated: September 29, 2017

s/Anthony P. Patti

Anthony P. Patti

UNITED STATES MAGISTRATE JUDGE

Certificate of Service

I hereby certify that a copy of the foregoing document was sent to parties of record on September 29, 2017, electronically and/or by U.S. Mail.

s/Michael Williams

Case Manager for the

Honorable Anthony P. Patti